

U.S. Serial No. 10/642,280
Amendment
Response to OA dated April 18, 2006

Atty. Docket No.: 742158-8

REMARKS

The most recent Office Action includes a rejection of claims 1-18, 21 and 22 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

In setting forth the rejection, the Examiner asserts that the language recited in claim 1, "large foam cells that have diameters substantially larger on average than those of the fine foam cells," is indefinite because it is unclear if the large foam cells are larger in diameter than the fine foam cells or if the size range of the large foam cells overlap the size of the fine foam cells. However, it is axiomatic that claims are to be read, not in a vacuum, but in light of Applicants' disclosure. See, MPEP 2173.02. For example, Applicants' Figure 1 clearly shows large foam cells 3 having diameters substantially larger on average than fine foam cells 4 in an interior thereof. It is respectfully submitted, therefore, that the claims are definite, especially when read in light of Applicants' disclosure.

Furthermore, the Examiner's assertions regarding overlapping ranges appear to be directed to the breadth of the claims, which is not a proper basis for a rejection under Section 112, second paragraph. See, MPEP 2173.04. While the level of precision the Examiner appears to be requiring would not be needed by one of ordinary skill in the art to understand the claimed invention, for purposes of advancing the prosecution, Applicants have amended the independent claims to make it abundantly clear that ranges of diameters of the recited large and fine foam cells do not overlap. More particularly, claims 1 and 8 have been amended to recite that each of the large foam cells has a diameter larger than those of the fine foam cells in an interior thereof. Support for this amendment is found at least in Figure 1 of Applicants' disclosure.

For at least these reasons, the rejection of independent claims 1 and 8, and hence also pending claims depending therefrom, should be withdrawn.

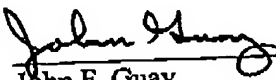
It is respectfully submitted that the present application is in condition for immediate allowance. Issuance of a Notice of Allowance and Issue Fee Due without further delay is earnestly sought.

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The Commissioner is authorized to charge any overage or shortage of fees connected with filing of this Amendment to Deposit Account No. 19-2380.

Respectfully submitted,


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